

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO BRANCH OFFICE

TEAM CLEAN, INCORPORATED

and

Case 37-CA-6905-1

UNITE HERE! LOCAL 5

Dale K. Yashiki, Esq., for the General Counsel.

Bryan P. Andaya Esq., (Imanaka, Kudo & Fujimoto) of Honolulu, Hawaii, for the Respondent.

Jennifer Cynn, Esq., of Honolulu, Hawaii,
for the Union.

BENCH DECISION

Statement of the Case

WILLIAM G. KOCOL, Administrative Law Judge. This case was tried by telephone conference call on December 13, 2005. The parties were represented by counsel located in Honolulu, Hawaii, and I was located in Los Angeles, California. At the conclusion of the hearing and following closing arguments I issued a Bench Decision pursuant to Section 102.35(a)(10) of the Board's Rules and Regulations, setting forth findings of fact and conclusions of law. In accordance with Section 102.45 of the Board's Rules and Regulations, I certify the accuracy of the portion of the transcript containing the Bench Decision as corrected below; it is attached as Appendix A.

- Page 39, line 12. Substitute "valued" for "valid."
- Page 44, line 12. Substitute "Co.," for "Code."
- Page 48, line 22. Substitute "conclusions" for "preconclusions."
- Page 48, line 23. Delete "five they are."

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹

ORDER

Respondent, Team Clean, Incorporated, Honolulu, Hawaii, its officers, agents, and representatives, shall:

1. Cease and desist from

¹ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 02.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(a) Refusing to bargain collectively by failing to furnish UNITE HERE! Local 5 and failing to furnish UNITE HERE! Local 5 in a timely fashion, with requested information that is relevant to fulfilling its role as the collective bargaining representative of the unit employees.

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(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

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(a) Provide UNITE HERE! Local 5 with the information concerning the bargaining unit members' current addresses and telephone numbers, rates of pay, and weekly work schedules.

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(b) Within 14 days after service by the Region, post at its facility in Honolulu, Hawaii, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 37, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 2, 2005.

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(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C., January 13, 2006.

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William G. Kocol
Administrative Law Judge

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² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

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APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT refuse to bargain collectively by failing to furnish UNITE HERE! Local 5, and failing to furnish UNITE HERE! Local 5 in a timely fashion, with requested information that is relevant to fulfilling its role as the collective bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL provide UNITE HERE! Local 5 with the information concerning the bargaining unit members' current addresses and telephone numbers, rates of pay, and weekly work schedules.

Team Clean, Incorporated

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

300 Ala Moana Boulevard, Room 7-245
Honolulu, Hawaii 96850-4980
Hours 8 a.m.-4:30 p.m.
808-541-2814.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 808-541-2815.